



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

SUBJECT: Weekly Activity Report - For the Period Ending
July 25, 2013

FROM: Marcia E. Mulkey (3RC00)
Regional Counsel

TO: Shawn M. Garvin (3RA00)
Regional Administrator

**Report for the Period Ending 07/25/13
Office of Regional Counsel**

Hot Topics/Heads up Items (Prospective):

1. Enforcement Issues:

Confidential items:

Non-confidential items:

2. Compliance Assurance Issues

Confidential items:

Non-confidential items:

3. Management/Policy Issues:

Confidential items:

Non-confidential items:

4. OGC Issues:

Confidential items:

Non-confidential items:

5. Upcoming Events Issues:

Confidential items:

Non-confidential items:

6. FOIA Issues:

Confidential items:

Non-confidential items:

Regular Highlights

Enforcement, Compliance Assurance and Other Legal Issues

Confidential items:

Non-confidential items:

Not Responsive

EPA Region III Lodges Consent Decree With XTO Energy Inc. to Resolve CWA Violation at its Marquardt Facility for a Penalty of \$100,000 and Region-Wide Injunctive Relief.

[Case 4:13-cv-01954-MWB] On July 18, 2013, U.S. DOJ lodged a Consent Decree resolving a civil action against XTO Energy Inc. for a violation of Section 301(a) of the CWA. The U.S. alleges that pollutants were unlawfully discharged into waters of the United States. On November 16, 2010, a Pennsylvania Department of Environmental Protection inspector visited XTO's Marquardt natural gas wellpad and wastewater storage facility located in Hughesville, Lycoming County, Pennsylvania, and observed an open valve on a 21,000 gallon baker tank that was discharging flowback fluid and produced fluid onto the ground. The tank was connected to 56 other baker tanks and the PADEP inspector also observed evidence of prior discharges from five nearby tanks. XTO estimated that approximately 150 barrels (6,300 gallons) to 1,366 barrels (57,373 gallons) of flowback and produced fluid were released. Sampling by XTO demonstrated that pollutants found in flowback and produced fluid such as strontium, chloride, bromide, barium, and total dissolved solids, were present in a nearby spring and Tributary 19617

at elevated levels for roughly 65 days. The spring and Tributary are waters of the United States, and empty into Sugar Run which flows into Muncy Creek, which flows into the Susquehanna River.

The United States and XTO Energy Inc. have agreed to settle this matter for a civil penalty of \$100,000.00. In addition, during the next three years, XTO will implement an estimated \$20 million in injunctive relief at XTO's unconventional natural gas extraction operations across EPA Region III which will ensure a reduction of approximately 57 million pounds of pollutants found in flowback and produced fluid from the environment. XTO will be required to use best efforts to recycle flowback and produced fluid in EPA Region III, and has committed to recycle no less than 50% per year of these fluids from its Pennsylvania unconventional gas extraction activities. When disposing of these wastewaters, XTO will only utilize facilities capable of accepting such wastewaters with a federally-enforceable NPDES permit limiting total dissolved solids in treated effluent to 500 milligrams per liter per month or less. With regards to its flowback and produced fluid tanks in the Region, XTO has agreed to institute widespread tank management practices that will ensure that adequate secondary containment is in place for all tanks during completion and production, that each tank is equipped with a means of high-level shutdown and utilizes remote monitoring or alarm notification in case of a spill, that flowback and produced fluids are not stored in open pits, lagoons, or other surface impoundments, and that tanks are adequately secured. This relief will require that XTO implement consistent practices throughout Region III in order to prevent similar spills in the future and to establish a model for best practices for protection of public health and the environment in the hydraulic fracturing industry. Over three years, the injunctive relief is expected to reduce total dissolved solids discharges to waters by an estimated 263,574,926 pounds. The proposed Consent Decree is subject to a 30 day public comment period. **Primary Contact: James Van Orden, (215) 814-2693, Additional Contact: Rebecca Crane, (215) 814-2389**

Not Responsive

Not Responsive

Los Angeles, The City of, Defendant's BRP at the Clerical Level, filed a Rule 27 Motion to

Not Responsive

Not Responsive

Not Responsive

Management and Policy Issues

Confidential items:

Non-confidential items:

OGC Issues

Confidential items:

Non-confidential items:

Upcoming Events Issues

Confidential items:

Non-confidential items:

FOIA Issues

Confidential items:

Non-confidential items: